

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MASSACHUSETTS

JUDITH THIBEAU
and GEORGE THIBEAU,
Plaintiffs,

Docket No. 04-10643MLW

v.

UNITED STATES OF AMERICA
and EAST BOSTON NEIGHBORHOOD
HEALTH CENTER CORPORATION
Defendants.

**JOINT PROPOSED FINDINGS OF FACT AND RULINGS OF LAW
REGARDING JURISDICTION**

1. The eye clinic where plaintiff Judith ThibEAU received treatment on September 26, 2002 was a subdivision of the East Boston Neighborhood Health Center on that date.
2. The United States Department of Health and Human Services had deemed the East Boston Neighborhood Health Center to be an employee of the Federal Government prior to September 26, 2002; and such deeming was in effect on September 26, 2002. Therefore, on September 26, 2002 the Health Center (and its subdivisions, including the eye clinic) was an employee of the Federal Government for purpose of the Federal Tort Claims Act.
3. Defendant United States funds and operates the East Boston Neighborhood Health Center and did so on September 26, 2002.

4. Pursuant to the Federal Tort Claims Act and the Public Health Services Act the United States is therefore the proper party defendant as employer of the Health Center and in its capacity of funding and operating the Health Center.
5. This Court has jurisdiction over the instant case pursuant to the Federal Tort Claims Act because plaintiffs have alleged the East Boston Neighborhood Health Center was negligent and that such negligence caused injury to plaintiffs.
6. Plaintiffs properly presented their administrative claims to the United States Department of Health and Human Services and such administrative claims were either denied or not acted upon so as to allow this Court proper jurisdiction over plaintiffs' claims against the United States.

Defendant
United States of America
by its attorney,

/s/ Christopher Alberto
Christopher Alberto, Esq.
Assistant United States Attorney
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Plaintiffs,
Judith and George Thibeu,
by their attorney,

/s/ James L. Frederick
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